IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 19TH DECEMBER 2007 / 28TH AGRAHAYANA 1929

Bail Appl..No. 7839 of 2007()

CC.232/2007 of J.M.F.C.,KOLENCHERRY
CRIME 192/01 OF KUNNATHUNADU POLICE STATION

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PETITIONER/ACCUSED

SHERIF, AGED 36, S/O MOIDEEN,
MUTHEDATH HOUSE, PAIMATTOM DESOM,
P.O.MANIKKINAR, ERNAKULAM DISTRICT.

BY ADV. SRI.M.H.HANIL KUMAR

RESPONDENTS: COMPLAINANT/ STATE

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1. SUB INSPECTOR OF POLICE,
KUNNATHNADU POLICE STATION,
REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT
OF KERALA, ERNAKULAM.

2. STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR ADV.SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 19/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 7839 OF 2007

Dated this the 19th day of December, 2007

O R D E R

Petitioner is the first accused. He, along with two co-accused, faces indictment for an offence punishable, inter alia, under Section 379 read with 34 IPC. The alleged crime occurred on 17.8.01. Investigation is complete. Final report has already been filed. Cognizance has been taken. The case is pending before the learned Magistrate as C.C.232/07. The 3rd accused, who alone faced the trial, has already been found not guilty and acquitted. The case against the petitioner has been split up.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. His absence earlier was not wilful or deliberate. The petitioner is willing to surrender before the learned Magistrate and seek regular bail. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law

and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in ***Alice George Vs. Deputy Superintendent of Police*** [2003 (1) KLT 339].

4. In the result, this petition is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient

prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

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